

Department of Veterans Affairs

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Secondary Family Caregiver means an individual who meets the requirements of § 71.25.

Serious injury means any injury, including traumatic brain injury, psychological trauma, or other mental disorder, incurred or aggravated in the line of duty in the active military, naval, or air service on or after September 11, 2001, that renders the veteran or servicemember in need of personal care services.

Undergoing medical discharge means that the servicemember has been found unfit for duty due to a medical condition by their Service's Physical Evaluation Board, and a date of medical discharge has been issued.

VA refers to the Department of Veterans Affairs.

(Authority: 38 U.S.C. 501, 1720G)

[76 FR 26172, May 5, 2011, as amended at 80 FR 13776, Jan. 9, 2015]

§ 71.20 Eligible veterans and servicemembers.

A veteran or servicemember is eligible for a Primary or Secondary Family Caregiver under this part if she or he meets all of the following requirements:

- (a) The individual is either:
 - (1) A veteran; or
 - (2) A member of the Armed Forces undergoing a medical discharge from the Armed Forces.
- (b) The individual has a serious injury, including traumatic brain injury, psychological trauma, or other mental disorder, incurred or aggravated in the line of duty in the active military, naval, or air service on or after September 11, 2001.
- (c) Such serious injury renders the individual in need of personal care services for a minimum of 6 continuous months (based on a clinical determination authorized by the individual's primary care team), based on any one of the following clinical criteria:
 - (1) An inability to perform an activity of daily living.
 - (2) A need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury, including traumatic brain injury.
 - (3) Psychological trauma or a mental disorder that has been scored, by a li-

censed mental health professional, with Global Assessment of Functioning (GAF) test scores of 30 or less, continuously during the 90-day period immediately preceding the date on which VA initially received the caregiver application. VA will consider a GAF score to be "continuous" if there are at least two scores during the 90-day period (one that shows a GAF score of 30 or less at the beginning of the 90-day period and one that shows a GAF score of 30 or less at the end of the 90-day period) and there are no intervening GAF scores of more than 30.

(4) The veteran is service connected for a serious injury that was incurred or aggravated in the line of duty in the active military, naval, or air service on or after September 11, 2001, and has been rated 100 percent disabled for that serious injury, and has been awarded special monthly compensation that includes an aid and attendance allowance.

(d) A clinical determination (authorized by the individual's primary care team) has been made that it is in the best interest of the individual to participate in the program.

(e) Personal care services that would be provided by the Family Caregiver will not be simultaneously and regularly provided by or through another individual or entity.

(f) The individual agrees to receive care at home after VA designates a Family Caregiver.

(g) The individual agrees to receive ongoing care from a primary care team after VA designates a Family Caregiver.

(Authority: 38 U.S.C. 501, 1720G(a)(2))

[76 FR 26172, May 5, 2011, as amended at 80 FR 13777, Jan. 9, 2015]

§ 71.25 Approval and designation of Primary and Secondary Family Caregivers.

(a) *Application requirement.* (1) Individuals who wish to be considered for designation by VA as Primary or Secondary Family Caregivers must complete and sign a joint application, along with the veteran or servicemember. Individuals interested in serving as Family Caregivers must be identified as such on the joint application, and no more than three individuals may serve

as Family Caregivers at one time for an eligible veteran, with no more than one serving as the Primary Family Caregiver.

(2) Upon receiving such application, VA will perform the clinical evaluations required by this section; determine whether the application should be granted; and, if so, whether each applicant should be designated as identified in the application.

(3) An application may be put on hold for no more than 90 days, from the date the application was received, for a veteran or servicemember seeking to qualify through a GAF test score of 30 or less but who does not have a “continuous” GAF score available.

(b) *Eligibility to serve as Primary or Secondary Family Caregiver.* In order to serve as a Primary or Secondary Family Caregiver, the applicant must meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Be either:

(i) The eligible veteran’s spouse, son, daughter, parent, step-family member, or extended family member; or

(ii) Someone who lives with the eligible veteran full-time or will do so if designated as a Family Caregiver.

(3) There must be no determination by VA of abuse or neglect of the eligible veteran by the applicant.

(4) Meet the requirements of paragraph (c) of this section, and any other applicable requirements of this part.

(c) *Assessment, education, and training of applicants.* Before VA approves an applicant to serve as a Primary or Secondary Family Caregiver, the applicant must:

(1) Be initially assessed by a VA primary care team as being able to complete caregiver education and training. Such assessment will consider any relevant information specific to the needs of the eligible veteran, as well as:

(i) Whether the applicant can communicate and understand details of the treatment plan and any specific instructions related to the care of the eligible veteran (accommodation for language or hearing impairment will be made to the extent possible and as appropriate); and

(ii) Whether the applicant will be capable of following without supervision

a treatment plan listing the specific care needs of the eligible veteran.

(2) Complete caregiver training and demonstrate the ability to carry out the specific personal care services, core competencies, and other additional care requirements prescribed by the eligible veteran’s primary care team.

(d) *Caregiver education and training.* For the purposes of this section, caregiver training is a program of education and training designed and approved by VA that consists of issues that are generally applicable to Family Caregivers, as well as issues specific to the needs of the eligible veteran. During this program of education and training, family members are eligible for beneficiary travel under 38 CFR part 70. Respite care will be provided during the period of initial caregiver instruction, preparation, and training if the participation would interfere with the provision of personal care services to the eligible veteran. Caregiver training will cover, at a minimum, education and training concerning the following core competencies:

(1) Medication management;

(2) Vital signs and pain control;

(3) Infection control;

(4) Nutrition;

(5) Functional activities;

(6) Activities of daily living;

(7) Communication and cognition skills;

(8) Behavior management skills;

(9) Skin care; and

(10) Caregiver self-care.

(e) *Initial home-care assessment.* No later than 10 business days after VA certifies completion of caregiver education and training, or should an eligible veteran be hospitalized during this process, no later than 10 days from the date the eligible veteran returns home, a VA clinician or a clinical team will visit the eligible veteran’s home to assess the caregiver’s completion of training and competence to provide personal care services at the eligible veteran’s home, and to measure the eligible veteran’s well being.

(f) *Approval and designation.* If the eligible veteran and at least one applicant meet the requirements of this part, VA

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will approve the application and designate Primary and/or Secondary Family Caregivers, as appropriate. This approval and designation will be a clinical determination authorized by the eligible veteran's primary care team. Approval and designation is conditioned on the eligible veteran and designated Family Caregivers remaining eligible for caregiver benefits under this part.

(Authority: 38 U.S.C. 501, 1720G)

[76 FR 26172, May 5, 2011, as amended at 80 FR 1377, Jan. 9, 2015]

§ 71.30 General Caregivers.

(a) A General Caregiver is a person who:

(1) Is not a Primary or Secondary Family Caregiver; and

(2) Provides personal care services to a covered veteran under this section, even if the individual does not reside with the veteran.

(b) A covered veteran, for purposes of this section, is a veteran who is enrolled in the VA health care system and needs personal care services because the veteran either:

(1) Is unable to perform an activity of daily living; or

(2) Needs supervision or protection based on symptoms or residuals of neurological or other impairment or injury.

(c) No application or clinical evaluation is required to obtain benefits as a General Caregiver. Veterans or General Caregivers may request any of the benefits listed in § 71.40(a) as needed, from the appropriate VA clinicians and staff at their local VA facilities.

(d) A veteran is not required to meet the eligibility requirements in § 71.20 to be considered a covered veteran.

(Authority: 38 U.S.C. 501, 1720G(b)(1), (2))

[76 FR 26172, May 5, 2011, as amended at 80 FR 1377, Jan. 9, 2015]

§ 71.40 Caregiver benefits.

(a) *General Caregiver benefits.* VA will provide to General Caregivers all of the benefits listed in paragraphs (a)(1) through (4) of this section.

(1) Continued instruction, preparation, training, and technical support. Caregivers will have access to each of

the following services, which may be provided through:

(i) Online and in-person educational sessions.

(ii) Use of telehealth and other available technologies.

(iii) Teaching techniques, strategies, and skills for caring for the eligible or covered veteran.

(2) Information concerning the supportive services available to caregivers under paragraph (a) of this section and other public, private, and nonprofit agencies that offer support to caregivers.

(3) Counseling and other services, as described under § 71.50.

(4) Respite care to eligible and covered veterans in support of the caregiver that is medically and age appropriate for the eligible or covered veteran (including 24-hour per day in-home respite care).

(b) *Secondary Family Caregiver benefits.* VA will provide to Secondary Family Caregivers all of the benefits listed in paragraphs (b)(1) through (6) of this section.

(1) General Caregiver benefits described in paragraph (a) of this section, except that respite care under paragraph (a)(4) is limited to veterans enrolled in the VA health care system. Respite care may be provided during a Family Caregiver's training, as described under § 71.25(d).

(2) The primary care team will maintain the eligible veteran's treatment plan and collaborate with clinical staff making home visits to monitor the eligible veteran's well-being, adequacy of care and supervision being provided. This monitoring will occur no less often than every 90 days, unless otherwise clinically indicated, and will include an evaluation of the overall health and well-being of the eligible veteran.

(3) Continuing instruction, preparation, and training to maintain or improve the personal care services provided to the eligible veteran.

(4) Ongoing technical support, consisting of information and assistance to address, in a timely manner, the routine, emergency, and specialized needs of the caregiver in providing personal care services to the eligible veteran.